

NEWARK HUMAN RIGHTS COMMISSION

REPORT
on
PUBLIC HEARING
on
CAPITAL PUNISHMENT

MUNICIPAL COUNCIL CHAMBERS

Newark, New Jersey

May 12 & 13, 1975



NEWARK HUMAN RIGHTS COMMISSION

City Hall - Room B-8

733-3890



KENNETH A. GIBSON

MAYOR

NEWARK, NEW JERSEY

07102



September 26, 1975

The Honorable Brendan T. Byrne
Governor, State of New Jersey
State House
Trenton, New Jersey 08625

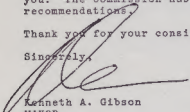
Dear Governor Byrne:

The Newark Human Rights Commission held Public Hearings on May 12 and 13, 1975 on the question of the restoration of the death penalty in New Jersey. The specific bill addressed was A3289, which would employ capital punishment for the killing of law enforcement, corrections and fire officers.

I am pleased to forward the enclosed resultant report to you. The Commission has made a statement of position and recommendations.

Thank you for your consideration of this report.

Sincerely,



Kenneth A. Gibson
MAYOR

KAG/rk

enclosure



KENNETH A. GIBSON

MAYOR

NEWARK, NEW JERSEY

07102



September 26, 1975

The Honorable Frank J. Dodd
Senator
President of the Senate
State House
Trenton, New Jersey 08625

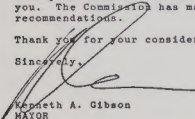
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V

September 26, 1975

The Honorable S. Howard Woodson
Speaker of the Assembly
State House
Trenton, New Jersey 08625

Dear Assemblyman Woodson:

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Newark

Kenneth A. Gibson
Mayor

Human Rights Commission

920 Broad Street
Newark, New Jersey 07102
201 733-3890

Daniel W. Blue, Jr.
Executive Director

September 16, 1975

The Honorable Kenneth A. Gibson, Mayor
City of Newark
City Hall
Newark, New Jersey 07102

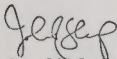
Dear Mayor Gibson:

The Newark Human Rights Commission is proud to present to you the report resulting from our Hearings on Capital Punishment.

The report includes a compilation and evaluation of testimony of the May 12 and 13, 1975 hearings, and recommendations from the Commission.

We wish to express our appreciation to you for your support in this and other endeavors.

Sincerely,



Rev. John R. Sharp
Chairman

Newark

Kenneth A. Gibson
Mayor

Human Rights Commission

920 Broad Street
Newark, New Jersey 07102
201 733-3890

Daniel W. Blue, Jr.
Executive Director

September 16, 1975

Members of the Municipal Council
Newark Municipal Council
City Hall
Newark, New Jersey 07102

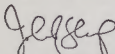
Dear Council Members:

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Chairman

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PREFACE

The Newark Human Rights Commission's responsibilities are broad. The goals are set forth in the charter of creation, "Article 11" of the Revised Ordinance of Newark:

2:2-40 Functions, powers and duties

(a) The functions of the Commission shall be to:

- (1) Foster mutual understanding and respect among all racial, religious and ethnic groups in the City,
- (2) Discourage and prevent discriminatory practice against any such group or its members.
- (3) Cooperate with federal, state and municipal agencies and non-governmental organizations having like or kindred functions; and
- (4) Make such investigations and studies in any field of human relationship as in the judgment of the Commission will aid in effectuating its general purposes.

The Human Rights Commission realizes that in order to effect positive social change we must act as a catalyst in matters of human and civil rights.

Public Hearings

The Commission holds public hearings in order to determine how the Newark citizenry feels relative to pertinent issues in the Civil Rights field. The issue of the restoration of the death penalty in the State of New Jersey was of prime interest to the Commission and citizens. Therefore, the Commission initiated public hearings on this subject. This report includes a summation of the two day hearing on the restoration of the death penalty. After careful study of the results of the hearings, the Newark Human Rights Commission has adopted a position it believes to represent those results, as well as its own position on the subject of restoration of capital punishment in the State of New Jersey. The report will be sent, with the Commission's recommendations, to the New Jersey Legislature in order to make the Senate and Assembly aware of the feelings expressed by the citizens of Newark in regard to the question of capital punishment.

PURPOSE AND BACKGROUND

The Newark Human Rights Commission Hearings on Capital Punishment arose from a specific request by a member of the Municipal Council, Councilman Donald Tucker. Councilman Tucker's request, pointing to the alleged discriminatory manner with which capital punishment has historically been practiced in this country, was discussed at a regular meeting of the Commission. Following a lengthy discussion, the Commission voted to hold public hearings on the subject of capital punishment. It was felt that members of the public deserved an opportunity to express their views on as crucial a matter as the death penalty. The Commission further realized its obligation to respond to the allegations that such punishment, if re-instated in the State of New Jersey, would indeed be imposed in a discriminatory manner against the residents of the city, as well as the state. The Commission voted to hold both afternoon and evening sessions, in order to provide an opportunity for all segments of the Newark population to speak. The staff was requested to undertake an extensive publicity program with the aim of alerting a large segment of the population of the availability of the hearings.

The hearing panel consisted of Reverend John R. Sharp, Chairman of the Commission, and eight Commissioners appointed by him. They were: Ms. Hope Jackson, 1st Vice Chairman, Mr. Manuel Geraldo, Mr. Joseph Manghisi, Mr. Jacinto Marrero, Mr. Carl Peterman, Mr. Courtney Weekes, Dr. Russel Greco, and Mr. Daniel Warnock. These Commissioners served as an impartial panel, for the purpose of gathering the information. Orientation sessions were held in order to assist the Commissioners in the task at hand. Personal views were neither expressed nor considered at the time of the hearings.

Notification of the hearings was given to the public in several ways. Articles were published in local newspapers requesting speakers to register. Local radio stations broadcast announcements of the same. Large posters were displayed prominently throughout the five wards of Newark. Public notices were mailed to community groups throughout the city, as well as to groups, on both sides of the issues, whose views on capital punishment were a matter of public record.

COMPILATION OF TESTIMONY

The following is a breakdown of speakers at the public hearings according to their affiliation. Some of these groups were represented by more than one speaker, however, the same views were presented, so that only the organization's name is listed.

In addition, fifteen (15) individual Newark residents stated their views. Of these, eleven (11) opposed Capital Punishment, and four (4) were in favor of it.

1. *Human and Civil Rights Organizations*

OPPOSED TO CAPITAL PUNISHMENT:

Commission for Racial Justice

Coalition for Penal Reform

American Civil Liberties Union

New Jersey State Advisory Committee to U.S. Commission on Civil Rights.

2. *Property Owners*

FOR CAPITAL PUNISHMENT:

North Ward Property Owners Protective Association

3. *Community Organizations*

OPPOSED TO CAPITAL PUNISHMENT:

Congress of African People

Newark Jaycees

West Ward Citizens Group

Schley Street Block Association

Osborne Terrace Block Association

4. *Professional Groups*

OPPOSED TO CAPITAL PUNISHMENT:

Association of Black Psychologists

National Conference of Black Lawyers

5. *Churches*

OPPOSED TO CAPITAL PUNISHMENT:

New Hope Baptist Church

6. *Police Groups*

OPPOSED TO CAPITAL PUNISHMENT:

Bronze Shields

7. *Private Associations*

FOR CAPITAL PUNISHMENT:

Veterans Civic League of New Jersey

8. *City Agencies*

OPPOSED TO CAPITAL PUNISHMENT:

Consumer Action

- 9 *Quasi-City Agencies*
OPPOSED TO CAPITAL PUNISHMENT
New Hope Development Corporation

- 10 *Elected Officials*
OPPOSED TO CAPITAL PUNISHMENT
Mayor Kenneth A. Gibson
Councilman Donald Tucker
Councilman Jesse Allen

FOR CAPITAL PUNISHMENT
Councilman Henry Martinez
Councilman Anthony Carrino
Assemblyman Richard Codey

MAJOR ARGUMENTS PRESENTED

The speakers who were not in favor of Capital Punishment were opposed for three major reasons: moral and religious fear of discriminatory application and the absence of a deterrent effect.

The following is a listing of those speakers opposed to Capital Punishment and a listing of their rationales.

Elected Officials

Mayor Kenneth A. Gibson Newark

Mayor Gibson stated that historically the death penalty has been imposed on the poor and the frailest and those who cannot receive for one reason or another adequate legal representation and those who have not been properly educated in our society."

He cited the lack of a deterrent effect and a higher question whether it not we as human beings have the right ourselves to decide whether or not another human being should live "and the problem of mistakes being made.

Mayor Gibson mentioned the need for the further development of rehabilitation and proper social services before considering use of capital punishment.

Councilman Donald Tucker Councilman-at-Large, Newark

Councilman Tucker stated "I'm in favor of mandatory and stronger punishments for those criminals who commit serious crimes. I am not, however, in favor of reinstatement of the death penalty. The belief that punishment must be graded according to the severity of the crime does not require that the upper limits of the severity be the death penalty."

The Councilman cited FBI statistics stating the dubious value as a deterrent. Also "The use of the death penalty in this state of New Jersey in our nation as a whole is sporadic, arbitrary, economically and racially discriminatory." He cited a U.S. Department of Justice report showing the disproportionate application against blacks. "Criminals with money and influence are better able to bargain for their release in comparison to the black and the poor."

In concluding he said "We as civilized and intelligent thinking citizens should take into consideration the basic faults within our society and the possibility of mistakes within our criminal justice processes, and not demand a life for a life."

Reverend Ivern West speaking for Councilman Jesse Allen Central Ward Newark

Rev. West presentation was extracted from a document prepared by Councilman Tucker. He noted the dubious value as a deterrent of the death penalty as well as other information previously cited.

Rev. West had polled members of his community and found that "98 per cent of those persons that we have polled feel that because of the economic conditions that affect the lower (class) blacks, whites, browns and other ethnic groups we find that they were unable to get the type of lawyers, type of defense that many of the persons in the upper class are able to retain."

He concluded "none of us has a right to take that God given life that God has put in our bodies."

Human and Civil Rights Organizations

Irv Joyner Director, Commission for Racial Justice, Criminal Justice Program

Mr. Joyner stated that his organization "is vigorously opposed to the use of capital punishment." He mentioned that an estimated 75 to 80 percent of all homicides occur between family, friends and acquaintance and the fear of the death penalty would not deter these emotional incidences.

Mr. Joyner believed the death penalty is discriminatory both racially and economically. Our information," he said, "shows that Blacks and poor people are the recipients." He cited North Carolina where, "of 69 people on death row, 60 percent are Black, 100 percent are poor."

Charles Tonic Executive Coordinator, Coalition for Penal Reform

Mr. Tonic cited the American Civil Liberties Union position as one with which he agreed. "Capital Punishment is cruel and unusual violation of the eighth amendment of the United States Constitution. A barbaric practice. It has no place in this civilized society. Executions in prison gave the message to all society that life ceases to be sacred when it is thought useful to take it."

Mr. Tonic also stated that the death penalty is "imposed almost exclusively against racial minorities, the poor, the uneducated persons." It is not a deterrent, and denies due process of law.

Bernard Freeman Project Director, Community Legal Action Workshop of the American Civil Liberties Union

Mr. Freeman stated that the use of the death penalty "perpetrates and exacerbates the inequality of wealth, social opportunity, educational opportunity, which exists in this country. 85 percent of the defendants that come before the courts are victims of their social or economic position."

Also, "there is no way that we can legislate or avoid discretion by legislation in the administration of the death penalty."

Nadine Taub Chairman, New Jersey State Advisory Committee to the United States Commission on Civil Rights

Ms. Taub stated, "there can be no question that the death penalty has had a disproportionate impact on the minorities, particularly blacks."

She quoted a former Governor of Ohio. "During my experience as governor of Ohio I found that men on death row had one thing in common they were penniless. They are poor, unable to manipulate the system to their own advantage." Ms. Taub continued, "There is no reason to believe that a new death penalty in New Jersey would avoid the discriminatory impact overall."

Community Organizations

Retha Perry West Ward citizen's Group

Ms. Perry stated "I won't call it capital punishment. I call it murder. I am against murder whether you have a position to do it or whether you go out and commit murder. We know the Ten Commandments say 'Thou shalt not kill' and yet we feel we should kill."

Ms. Perry also mentioned economically discriminatory application of capital punishment.

Richard McClish President, Schley Street Block Association

Mr. McClish stated "The citizens on my block and my community are very fearful of this legislation because they feel that let us say it is somewhat discriminatorily used against Black minorities and they also feel that the legislation will not in fact, deter crime or lessen the threat on life. They also feel that to bring back the death penalty would be inhumane and cruel punishment perpetrated upon any individual."

He asked "that the legislators should direct their attention to try to correct some of the social ills that breed these type of desperate actions by individuals."

Ms. Arlene Henry President, Osborne Terrace Block Association

Ms. Henry stated "We should be talking about causation of crime instead of trying to deal with it by wiping people out." She spoke of the necessity of alleviating social problems and also feared racially and economically discriminatory application of capital punishment.

Mrs. Henry also said " the Bible says that Thous shall not kill "

Thazaru - Congress of African People

Thazaru stated "people of the Black and other minority communities are definitely opposed to the death penalty whose victims will be Black and Puerto Rican people who already make up 75 percent of the population of big city jails. The death penalty only speaks to legally murdering victims through Black, Puerto Rican and poor Whites who are exploited by the system that they are forced to live in.

"The Congress of African People openly opposes the death penalty as an instrument to support the ruling class."

Richard Rogers - President Newark Jaycees

Mr. Rogers felt the death penalty was not a deterrent since a person who would kill " has overcome all inhibitions " and also " it is really a miscarriage of justice for this person if he convicted if common sense tells us he has to be crazy to do it."

He mentioned "There ought to be more productive ways of removing someone from society."

New Hope Development Corporation

The following speakers represented the New Hope Development Corporation: Rev. Joseph Dae, Thurman Smith, Stanley Winters, Sharon Thomas, Roberta Warren, Roslyn Holmes, James McCann, Nathan Davis.

These speakers all represented the same point of view. The statement of Stanley Winters sums up these views.

Mr. Winters stated "The death penalty once carried out, is irrevocable. Judicial errors have occurred and innocent people we cannot know how many have suffered because of failures in the justice system. "Data also show that there is a far higher proportion of persons sentenced to death from oppressed and disadvantaged groups of American society than from the middle class and white groups because of social bias in the criminal justice system which works against them."

Mr. Winters stated that the threat of death is not a deterrent, and " that the assurance of a definite punishment and not necessarily the severity of that punishment is the best deterrent to crime.

"So long as we fail to unite against the social foundations of crime then so long will we be sidetracked into divisive issues like the question of restoring the death penalty."

Rev. Charles Thomas - Pastor, New Hope Baptist Church

Rev. Thomas stated "I've been asked by my committee today to express their total opposition to the reinstatement of the death penalty. I express it very strongly but I also stand here representing a higher authority, a very emphatic man and he said 'Thou shalt not kill.' We must believe that a murder is a murder any time it cuts short a man's life span."

Professional Groups

Dr. George Jackson - National Chairman, Association of Black Psychologists.

Dr. Jackson stated " capital punishment in the context of the current criminal justice system accelerates a poor already debased assessment of human life, and, therefore compounds the problem already existing in the nation which persistently deals in a very negligent manner with the poor.

"The Association of Black Psychologists say that certainly rather than severity is the yard stick by which any sort of punishment or rehabilitation should be moted out."

Dr. Jackson also noted "that the greatest violence & violence is perpetrated by the police against Black people as White people against Black people. In such a context, we feel that it will be a crime to have a group of individuals set aside for whom capital punishment would so-called protect but in the end will hurt them."

Detective Herbert Friday - President, Bronze Shields

Detective Friday stated "We see this law so many, their laws are only being used in cases that involve the poor and disadvantaged that come before the court. To live in a system of this capital punishment would only be another way to keep a disadvantaged person in a disadvantaged position. A person sent to death and later found innocent, where is the Court of Appeals for those?"

Detective Friday continued "The Fourteenth Amendment states no person shall be given a cruel & unusual punishment. The death penalty is cruel, it's painful, and it's unusual because there is no regress from it."

Dave Edwards - National Conference of Black Lawyers

Mr. Edwards felt that the death penalty would be used in a discriminatory fashion against the poor. He also asked "what happens if there's a mistake?" saying that this would be paid for by a person with his life."

Daniel Tindall - President, Association of Black Building and Construction Contractors of New Jersey

Mr. Tindall stated "our group's opposition saying 'I think it's an opposition based on opposition to humanity and on extra-brutality and violence. He hoped our society had progressed further than "an eye for an eye..."

He continued "we must delve into the apparent trend of violence in the total system and this is one small part of it." He raised the possibilities of mistakes being made, discrimination against minorities and "divisions in our society organized to brutalize the society so that ones who control the society will do it more easily."

City Agencies

Dennis Cherot - Director, Consumer Action Newark

Mr. Cherot stated "In this case I think the argument is very well made capital punishment is discriminatory, economically and racially and that the individuals who are least in a position to afford the type of representation necessary are poor and minorities."

Also "The death penalty is not being imposed as a deterrent to capital crimes but is a form of revenge for capital crimes. Statistics will indicate that the burden of vengeance (will be) upon minorities, poor, or those left in a position to protect themselves from the results of this."

Eleven un-affiliated individuals also spoke against capital punishment. Five cited the death penalty as being against their moral and religious beliefs. All concurred that the death penalty would be used in a discriminatory manner against blacks and minorities. The deterrent effect was also rejected by these speakers.

MAJOR ARGUMENTS PRESENTED

The speakers in favor of Capital Punishment in New Jersey cited many varied reasons for their positions. The major concerns were for the safety of society, vengeance for the aggrieved citizens, and the deterrent effect the death penalty would have on potential offenders.

The following is a listing of speakers in favor of the death penalty and a breakdown of their rationales.

Assemblyman Richard Codey — 26th Assembly District

Assemblyman Codey is the sponsor of bill A3289, which provides for the death penalty "upon execution of the prosecutor if such House (murder) was committed against a police or other law enforcement officer, correct, his employee or fireman who was performing his duties or because of his status as a public servant."

The Assemblyman stated, "In providing its members protection, society must do what is necessary to deter those who would break its laws and punish those who do so in appropriate manner. It is my conclusion that capital punishment applied to the most serious offenses fulfills these functions."

Mr. Codey also cited "the incapacitating effect of capital punishment" and "the inherent logic of the deterrent power of the threat of death."

Councilman Henry Martinez — East Ward, Newark

Councilman Martinez stated, "capital punishment is the cornerstone of any credible system of law enforcement." The Councilman mentioned that "once a killer has been eliminated, he is forever incapable of killing again; additionally, it appears that since the time when the right to private justice was taken over by the government, grief-stricken relatives were in effect guaranteed that their cry for justice would be acted upon." The Councilman quoted William F. Buckley, who wrote, "some people refer to the taking of a life of a convicted killer as annihilation, when they should be content with calling it distasteful."

Councilman Anthony Carrino — North Ward, Newark

Councilman Carrino stated, "I don't believe the death penalty should be invoked just for the killing of a police officer, but everyone who is killed during the course of a crime which may be interpreted as premeditated." The Councilman also cited the need for the protection of citizens, the rising crime rate, and the finality of the death penalty as reasons for its reenactment.

Michael J. Picone — President, North Ward Property Owners Protective Association

Mr. Picone stated, "We do need a deterrent to vicious criminal acts of murder. I am in favor of restoring the death penalty for the killing of anyone, not only of law enforcement, corrections or fire officers. Justice now is for the criminal and not for the innocent. I believe in capital punishment because I believe that this is the justice for the innocent person."

Ann Groves

Ms. Groves stated, "I am speaking in opposition to (capital punishment) if you are basing it as they specified only for firemen or policemen. I am for it on one specific thing and that is for rapists of children."

Samuel Sachs Commander, Veteran's Civic League of New Jersey

Mr. Sachs read a resolution unanimously adopted by his organization calling on the Governor and Legislature to "re-enact capital punishment as the penalty for murder in the first degree."

Mr. Sachs cited the deterrent effect, and felt the death penalty should include every rape kidnapping and murder of any kind.

James Treadwell

Mr. Treadwell said "I'm in favor of the death penalty if it covers a. murders Murder in the event of a mugging attempt or a mugging robbery or robbery attempts, burglary, burglary attempts or kidnapping. I am opposed to the death penalty if it does not include any citizen who commits these crimes."

If there were life sentences with no provisions for parole Mr. Treadwell would support it.

John V. Hanrahan

Mr. Hanrahan had witnessed executions in 1952 and believed in their deterrent effect. He did not feel convicted murderers should be allowed to return to society to repeat their crimes.

John H. Bakman

Mr. Bakman stated "the laws should cover the acts of murder for civilians as well as police and firemen and other public employees. He called for the death penalty for murder by robbery mugging rape or arson by hired killers, or for murders while committing crimes using guns knives, clubs or physical brute force. He noted the deterrent effect "When these killers realize they will be punished with their own lives, they will hesitate to take someone else's."

Robert Doherty

Mr. Doherty stated "when a perpetrator acts outside the bounds of the community he forfeits his rights to life. Both society and the victim, I believe, are entitled to vengeance."

He went on to mention the need to keep killers incarcerated or executed as a deterrent and means of protection against repetition. Mr. Doherty was in favor of capital punishment for any premeditated, first degree murder.

NEWARK HUMAN RIGHTS COMMISSION POSITION
ON
CAPITAL PUNISHMENT

The Newark Human Rights Commission having completed public hearings on the subject of Capital Punishment and more particularly on the reintroduction of legislation that would again make such punishment legal in New Jersey is overwhelmingly and resolutely opposed to the reintroduction of Capital Punishment in the State of New Jersey.

This Commission was created to protect the human rights of the citizens of Newark. We are convinced upon study of the public testimony and printed material that Capital Punishment as it has historically been practiced would if reinstated in New Jersey, be an affront to the very mandate this Commission has to protect the human rights of Newark's citizens. This Commission is in full accord with those who testified at the Hearing that they saw no way to condemn murder by an individual while legislating for the State. It is immoral for the State to take away what it could in no way ever give back. The immorality of capital punishment becomes ever more clear when one notes, as has been proven time after time, that the act accomplishes nothing but death. The existence of capital punishment does no better persons at all. Studies have in fact shown a higher rate of capital crimes in states which have the existing legislation while abolitionist states have enjoyed lower rates of such crimes. The morality is further exhibited in the discriminatory manner in which such legislation has historically been administered.

The evidence of discriminatory practice aimed chiefly at minorities, is overwhelming. The testimony of Newark's citizens in viewing such practice as discriminatory is also overwhelming, resulting in 89% of the groups and 77% of the individuals who spoke opposing Capital Punishment in any form.

In the two day hearings we were repeatedly reminded by the representatives of community organizations and concerned individuals that it was they, the poor and the black residents of New Jersey's largest city that would suffer the brunt of this legislation. Studies were brought to our attention to show that the pattern of application in New Jersey was the same as in other states, that is, equally as discriminatory in application.

Whereas nearly all of the blacks convicted of capital crimes were executed in New Jersey less than one third of the whites convicted of the same crimes, suffered the ultimate penalty. The discrepancy grows even greater when one looks at the record of commutation in New Jersey where whites were twice as likely to have their sentences commuted as were blacks. The existence of discrimination is not simply limited to the victims of racism, the added need of expensive legal proceedings means that the poor of any race, creed or religion are at a disproportionate disadvantage. Capital Punishment has been called the "privilege of the poor."

We are acutely aware that the economic plight of our country, the rising frustrations of our poor and unemployed, and the physical conditions of our center cities produce breeding grounds for violence and bloodshed. We see the need to banish these, the "murderers" of our people, if society is ever to be truly just.

In a just society, those who are seemingly unable to cope with life in a rational and non-violent manner will be aided rather than further persecuted. Even as society must be protected from them, they must be protected from an angry society that has created them.

This Commission composed of representatives from the disciplines of law, education, medicine, religion, penal enforcement, mental health and social service believes that alternatives can and must be found for the creation of a sane and just society in our cities and our states. It is time that those who

frame our laws as well as those who enforce them put aside the emotional arguments of groups who would retain or reinstate the cruel and discriminatory punishment. We are convinced by the evidence set before us that the concept of Capital Punishment serves no logical or positive purpose. It does not deter crime. It cannot restore life. It is frighteningly fallible and absolutely irreversible. It is neither practically nor economically good penitentiary practice. Those who have witnessed it have never believed it satisfy the call for justice. It is the imperfect solution of a frustrated society that refuses to create just alternatives. Those who are rightly concerned about the safety of our citizens must move beyond retaliation and address the needs of restoration and rehabilitation of our communities if our citizens are ever to be safe.

We the Newark Human Rights Commission call upon our legislators and our government to oppose the reinstatement of Capital Punishment in New Jersey. We urge the passing of laws that will establish viable alternatives to Capital Punishment while preserving the rights of all New Jersey citizens.

**CONCURRING POSITION
ON
CAPITAL PUNISHMENT**

After careful review and analysis of testimony presented at the Public Hearings, relative to the restoration of the Death Penalty in the State of New Jersey, the Newark Human Rights Commission concludes the following:

It is abundantly clear that the interested members of the Greater Newark Community are overwhelmingly opposed to the Assembly Bill which reflects selective application of the death penalty as it is applicable to specific groups, under special circumstances. The concept of this bill is totally unconscionable and unacceptable. Our collective society can neither condone nor permit legislation that sets a greater value on the human life of one individual or group as opposed to others, their specific contributions to society as a whole not withstanding.

Opponents and proponents of the application of the Death Penalty without reservation appear to find the Death Penalty and its finality abhorant on moral grounds. It is therefore the considered position of this Commission that to effectively deal with the subject matter, we must divorce ourselves of the moral concept as it applies to the Death Penalty. This does not reflect abandonment of the principles of human life and its value, but is a realistic appraisal of history; that moral values are essential ingredients in the application of true and equal justice, and cannot be imposed on others through legislation.

Transcripts of testimony of persons of all stations who appeared before the Commission expressed their positions and those of their constituencies pro and con, as it applies to the restoration of the death penalty. Careful consideration of the views expressed revealed another significant fact, the fear of discrimination, and unequal application of justice. While the specific purpose of the hearings was consideration of the restoration of the Death Penalty in New Jersey in general and Assembly Bill 3289, in particular. We of the Commission cannot ignore these fears and the cries against injustice and unequal application of the law.

It is apparent that the death penalty, and for that matter any alternative form of penalty imposed by our legal system for serious crimes, are meaningless, unless these fears are totally addressed.

This is an awesome responsibility placed in the hands of our elected legislators. We of the Newark Human Rights Commission stand ready to assist them in any way we can to meet the challenge that all our society cries out for-Equal Justice for all, freedom from prejudice, bigotry and hate.

ALTERNATIVES FOR LEGISLATIVE REVIEW

Following the Hearings on Capital Punishment, the Commissioners and Staff met to review the transcript and consider recommendations to the State Legislature. It was clear, from a review of the material gathered at the hearings, that the overwhelming sentiment of those testifying was against reenactment of capital punishment. What was not as clear, however, were alternatives for consideration by the Legislature. Since legislation is generally the result of an effort to meet the needs of the people — in this case, securing proper justice and maintaining safety—simply adopting a negative position would leave those needs unmet. The Commission, therefore, convened several times to discuss recommendations that would go beyond merely advising the defeat of capital punishment legislation. The following recommendations are the result of those meetings.

Prevention

The Commission is acutely aware of the need to focus legislative attention on the plight of our urban areas, areas which are literally becoming breeding grounds for crime and murder.

We submit the following alternatives for your consideration:

- (a) The establishment of *neighborhood youth programs*:
- (b) *Counseling programs*
- (c) *Alternative education*, designed to reach drop-outs, is essential.
- (d) *Employment* should be a guaranteed state right. (As long as the unemployment lines continue to grow, and the sense of frustration they bring continues to rise, crimes of desperation will inevitably continue.)
- (e) *Medical services*, particularly to the emotionally disturbed, must be moved from the distant and megalithic institution to the neighborhood.
- (f) *Gun Reform*, we propose consideration of a ban on all hand guns with the exception of properly constituted law enforcement agencies.

Rehabilitation

PENAL REFORM: The Commission believes that the alternative to overcrowded penal institutions, which, according to the critics, would be even more crowded with the life-terminer, is only to be found through a hard look at the pressing need for penal reform.

Therefore, we submit the following recommendations;

- (a) *Reformatories not dungeons.* Our institutions need to be reformatories in the best sense of that term.
- (b) *Character Redevelopment.* The emphasis has to be on character redevelopment. The commendable record that first generation therapeutic communities have built in working with drug addicts — a group formerly thought to be incorrigible — should show the “myth of the incorrigible” to be precisely that — a myth. Our society should put a high premium on the re-cycling of human potential rather than destroying it. Such a review of the existing patterns of reform should take a long look at the best the rehabilitative skills can offer.
- (c) The abolishment of victimless crimes would provide an immediate relief for the penal and court system.
- (d) There is a need for a review of the *Parole System* — a system which needs to give maximum protection to the public, while remaining an incentive for new character development by the incarcerated.
- (e) Replace punitive staff with educational, rehabilitation and psychological trained staff.

Persons reading this report, and looking for an alternative way to satisfy the cry for vengeance will look in vain. This Commission believes that the human dignity and worth of an individual is inviolable. Even though society cannot replace the life of a victim of a capital crime, it is far better to attempt to reform and re-channel the life of the remaining victim (the murderer) than to give up his/her life-while making the state the newest victim in this endless chain of life-taking.

A COMMENDATION TO THE NEWARK COMMUNITY

The Hearing Panel, after review of the transcripts, requested a fellow Commissioner, Dr. Robert Small, who had been unable to attend the hearings, to review the transcripts independently. Dr. Small is a prison psychologist, and distinguished author in the area of criminal justice. Most significant is his book "The Legal Slaughter of Peace," in which he devoted an entire chapter to the subject of capital punishment. Dr. Small worked independently of the Commission, and submitted his evaluation only after the Commission Panel had completed its report. It is significant that his evaluation concurred completely with that of the Commission. In his review he commended those who testified, noting that "such points of view (expressed at the hearings) reflect an approach to human dignity which should be of importance to all thinking persons. We can deduct from the overall approach that there are still some persons who do not believe in simply preaching the commandments but also living them. The reviewer is in full accord with those persons and organizations who stood firm against capital punishment."

THE HONORABLE KENNETH A. GIBSON, MAYOR

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